

MILBANK, TWEED, HADLEY & McCLOY LLP

28 LIBERTY STREET

NEW YORK, N.Y. 10005-1413

LOS ANGELES

424-386-4000
FAX: 213-629-5063

WASHINGTON, D.C.

202-835-7500
FAX: 202-835-7586

LONDON

44-20-7615-3000
FAX: 44-20-7615-3100

FRANKFURT

49-69-71914-3400
FAX: 49-69-71914-3500

MUNICH

49-89-25559-3600
FAX: 49-89-25559-3700

212-530-5000

FAX: 212-530-5219

Scott A. Edelman
Chairman

DIRECT DIAL NUMBER

212-530-5149

Fax: 212-822-5149

E-MAIL: sedelman@milbank.com

BEIJING

8610-5969-2700
FAX: 8610-5969-2707

HONG KONG

852-2971-4888
FAX: 852-2840-0792

SEOUL

822-6137-2600
FAX: 822-6137-2626

SINGAPORE

65-6428-2400
FAX: 65-6428-2500

TOKYO

813-5410-2801
FAX: 813-5410-2891

SÃO PAULO

55-11-3927-7700
FAX: 55-11-3927-7777

November 5, 2018

VIA ECF AND HAND DELIVERY

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Certain Non-Class Actions Relating to *In re American Realty Capital Properties, Inc. Litigation*, No. 15-mc-00040-AKH

Dear Judge Hellerstein:

The undersigned submits this letter jointly on behalf of Defendant American Realty Capital Properties, Inc., n/k/a VEREIT, Inc. (“ARCP”), and the direct action Plaintiffs (the “Settling Plaintiffs”) in the following individual actions: *Archer Capital Master Fund, L.P., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:16-cv-05471-AKH; *Atlas Master Fund, Ltd., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:16-cv-05475-AKH; *Fir Tree Capital Opportunity Master Fund, L.P., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:17-cv-04975-AKH; and *Cohen & Steers Institutional Realty Shares, Inc., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:18-cv-06770-AKH (the “Settled Individual Actions”).

On Monday, November 5, 2018, ARCP and the Settling Plaintiffs, represented by Lowenstein Sandler LLP, submitted dismissal papers in the Settled Individual Actions. These dismissal papers were submitted because ARCP and these Settling Plaintiffs reached settlements of the Settled Individual Actions, in which the Settling Plaintiffs received certain monetary

The Honorable Alvin K. Hellerstein
November 5, 2018
Page 2

compensation and, in exchange, agreed, among other things, to dismiss all of their individual claims asserted in the Settled Individual Actions. The Settled Individual Actions are individual actions, and not class actions, and thus no inquiry or approval pursuant to Rule 23 or otherwise is necessary.

The settlement, and dismissal papers submitted in the Settled Individual Actions, relate only to the Settled Individual Actions, and do not relate to (1) the ongoing class action (*In re American Realty Capital Properties, Inc. Litigation*, No. 1:15-mc-00040-AKH), (2) the individual action captioned *Jet Capital Master Fund, L.P., et al. v. American Realty Capital Properties, Inc., et al.*, No. 1:15-cv-00307-AKH, which is an individual action in which the plaintiffs are represented by the Lowenstein firm, or (3) the shareholder derivative action (*Witchko v. Schorsch, et al.*, No. 1:15-cv-06043-AKH), all of which are still pending.

The parties thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Scott A. Edelman
Scott A. Edelman

cc: All counsel (via ECF)